

Assembly Constitutional Amendment

No. 18

Introduced by Assembly Member Wiggins

February 22, 2002

Assembly Constitutional Amendment No. 18—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article XIII A thereof, relating to property taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 18, as introduced, Wiggins. Property taxation: change in ownership: exclusion: grandparent transfers to developmentally disabled grandchildren.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing law provides that, for purposes of this limitation, the terms “purchase” and “change in ownership” do not include certain transfers of real property from a grandparent to a grandchild whose parents are deceased.

This measure would specify that, for purposes of this limitation, the terms “purchase” and “change in ownership” do not include a transfer of real property, as specified, from a grandparent to a grandchild who is developmentally disabled, as defined.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2001–02 Regular
3 Session commencing on the fourth day of December 2000,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended by amending Section 2 of
7 Article XIII A thereof, to read:

8 SEC. 2. (a) The “full cash value” means the county
9 assessor’s valuation of real property as shown on the 1975–76 tax
10 bill under “full cash value” or, thereafter, the appraised value of
11 real property when purchased, newly constructed, or a change in
12 ownership has occurred after the 1975 assessment. All real
13 property not already assessed up to the 1975–76 full cash value
14 may be reassessed to reflect that valuation. For purposes of this
15 section, “newly constructed” does not include real property that
16 is reconstructed after a disaster, as declared by the Governor,
17 where the fair market value of the real property, as reconstructed,
18 is comparable to its fair market value prior to the disaster. Also, the
19 term “newly constructed” ~~shall~~ *does* not include the portion of
20 reconstruction or improvement to a structure, constructed of
21 unreinforced masonry bearing wall construction, necessary to
22 comply with any local ordinance relating to seismic safety during
23 the first 15 years following that reconstruction or improvement.

24 However, the Legislature may provide that under appropriate
25 circumstances and pursuant to definitions and procedures
26 established by the Legislature, any person over the age of 55 years
27 who resides in property that is eligible for the homeowner’s
28 exemption under subdivision (k) of Section 3 of Article XIII and
29 any implementing legislation may transfer the base year value of
30 the property entitled to exemption, with the adjustments
31 authorized by subdivision (b), to any replacement dwelling of
32 equal or lesser value located within the same county and purchased
33 or newly constructed by that person as his or her principal
34 residence within two years of the sale of the original property. For
35 purposes of this section, “any person over the age of 55 years”
36 includes a married couple one member of which is over the age of
37 55 years. For purposes of this section, “replacement dwelling”
38 means a building, structure, or other shelter constituting a place of
39 abode, whether real property or personal property, and any land on
40 which it may be situated. For purposes of this section, a



1 two-dwelling unit shall be considered as two separate
2 single-family dwellings. This paragraph shall apply to any
3 replacement dwelling that was purchased or newly constructed on
4 or after November 5, 1986.

5 In addition, the Legislature may authorize each county board of
6 supervisors, after consultation with the local affected agencies
7 within the county's boundaries, to adopt an ordinance making the
8 provisions of this subdivision relating to transfer of base year value
9 also applicable to situations in which the replacement dwellings
10 are located in that county and the original properties are located in
11 another county within this State. For purposes of this paragraph,
12 "local affected agency" means any city, special district, school
13 district, or community college district that receives an annual
14 property tax revenue allocation. This paragraph shall apply to any
15 replacement dwelling that was purchased or newly constructed on
16 or after the date the county adopted the provisions of this
17 subdivision relating to transfer of base year value, but shall not
18 apply to any replacement dwelling that was purchased or newly
19 constructed before November 9, 1988.

20 The Legislature may extend the provisions of this subdivision
21 relating to the transfer of base year values from original properties
22 to replacement dwellings of homeowners over the age of 55 years
23 to severely disabled homeowners, but only with respect to those
24 replacement dwellings purchased or newly constructed on or after
25 the effective date of this paragraph.

26 (b) The full cash value base may reflect from year to year the
27 inflationary rate not to exceed 2 percent for any given year or
28 reduction as shown in the consumer price index or comparable
29 data for the area under taxing jurisdiction, or may be reduced to
30 reflect substantial damage, destruction or other factors causing a
31 decline in value.

32 (c) For purposes of subdivision (a), the Legislature may
33 provide that the term "newly constructed" does not include any
34 of the following:

35 (1) The construction or addition of any active solar energy
36 system.

37 (2) The construction or installation of any fire sprinkler system,
38 other fire extinguishing system, fire detection system, or
39 fire-related egress improvement, as defined by the Legislature,

1 that is constructed or installed after the effective date of this
2 paragraph.

3 (3) The construction, installation, or modification on or after
4 the effective date of this paragraph of any portion or structural
5 component of a single- or multiple-family dwelling that is eligible
6 for the homeowner's exemption if the construction, installation, or
7 modification is for the purpose of making the dwelling more
8 accessible to a severely disabled person.

9 (4) The construction or installation of seismic retrofitting
10 improvements or improvements utilizing earthquake hazard
11 mitigation technologies, that are constructed or installed in
12 existing buildings after the effective date of this paragraph. The
13 Legislature shall define eligible improvements. This exclusion
14 does not apply to seismic safety reconstruction or improvements
15 that qualify for exclusion pursuant to the last sentence of the first
16 paragraph of subdivision (a).

17 (5) The construction, installation, removal, or modification on
18 or after the effective date of this paragraph of any portion or
19 structural component of an existing building or structure if the
20 construction, installation, removal, or modification is for the
21 purpose of making the building more accessible to, or more usable
22 by, a disabled person.

23 (d) For purposes of this section, the term "change in
24 ownership" does not include the acquisition of real property as a
25 replacement for comparable property if the person acquiring the
26 real property has been displaced from the property replaced by
27 eminent domain proceedings, by acquisition by a public entity, or
28 governmental action that has resulted in a judgment of inverse
29 condemnation. The real property acquired shall be deemed
30 comparable to the property replaced if it is similar in size, utility,
31 and function, or if it conforms to state regulations defined by the
32 Legislature governing the relocation of persons displaced by
33 governmental actions. The provisions of this subdivision shall be
34 applied to any property acquired after March 1, 1975, but shall
35 affect only those assessments of that property that occur after the
36 provisions of this subdivision take effect.

37 (e) (1) Notwithstanding any other provision of this section, the
38 Legislature shall provide that the base year value of property that
39 is substantially damaged or destroyed by a disaster, as declared by
40 the Governor, may be transferred to comparable property within



1 the same county that is acquired or newly constructed as a
2 replacement for the substantially damaged or destroyed property.

3 (2) Except as provided in paragraph (3), this subdivision shall
4 apply to any comparable replacement property acquired or newly
5 constructed on or after July 1, 1985, and to the determination of
6 base year values for the 1985–86 fiscal year and fiscal years
7 thereafter.

8 (3) In addition to the transfer of base year value of property
9 within the same county that is permitted by paragraph (1), the
10 Legislature may authorize each county board of supervisors to
11 adopt, after consultation with affected local agencies within the
12 county, an ordinance allowing the transfer of the base year value
13 of property that is located within another county in the State and
14 is substantially damaged or destroyed by a disaster, as declared by
15 the Governor, to comparable replacement property of equal or
16 lesser value that is located within the adopting county and is
17 acquired or newly constructed within three years of the substantial
18 damage or destruction of the original property as a replacement for
19 that property. The scope and amount of the benefit provided to a
20 property owner by the transfer of base year value of property
21 pursuant to this paragraph shall not exceed the scope and amount
22 of the benefit provided to a property owner by the transfer of base
23 year value of property pursuant to subdivision (a). For purposes of
24 this paragraph, “affected local agency” means any city, special
25 district, school district, or community college district that receives
26 an annual allocation of ad valorem property tax revenues. This
27 paragraph shall apply to any comparable replacement property
28 that is acquired or newly constructed as a replacement for property
29 substantially damaged or destroyed by a disaster, as declared by
30 the Governor, occurring on or after October 20, 1991, and to the
31 determination of base year values for the 1991–92 fiscal year and
32 fiscal years thereafter.

33 (f) For the purposes of subdivision (e):

34 (1) Property is substantially damaged or destroyed if it sustains
35 physical damage amounting to more than 50 percent of its value
36 immediately before the disaster. Damage includes a diminution in
37 the value of property as a result of restricted access caused by the
38 disaster.

39 (2) Replacement property is comparable to the property
40 substantially damaged or destroyed if it is similar in size, utility,

1 and function to the property that it replaces, and if the fair market
2 value of the acquired property is comparable to the fair market
3 value of the replaced property prior to the disaster.

4 (g) For purposes of subdivision (a), the terms “purchased” and
5 “change in ownership” do not include the purchase or transfer of
6 real property between spouses since March 1, 1975, including, but
7 not limited to, all of the following:

8 (1) Transfers to a trustee for the beneficial use of a spouse, or
9 the surviving spouse of a deceased transferor, or by a trustee of
10 such a trust to the spouse of the trustor.

11 (2) Transfers to a spouse that take effect upon the death of a
12 spouse.

13 (3) Transfers to a spouse or former spouse in connection with
14 a property settlement agreement or decree of dissolution of a
15 marriage or legal separation.

16 (4) The creation, transfer, or termination, solely between
17 spouses, of any coowner’s interest.

18 (5) The distribution of a legal entity’s property to a spouse or
19 former spouse in exchange for the interest of the spouse in the legal
20 entity in connection with a property settlement agreement or a
21 decree of dissolution of a marriage or legal separation.

22 (h) (1) For purposes of subdivision (a), the terms “purchased”
23 and “change in ownership” do not include the purchase or transfer
24 of the principal residence of the transferor in the case of a purchase
25 or transfer between parents and their children, as defined by the
26 Legislature, and the purchase or transfer of the first one million
27 dollars (\$1,000,000) of the full cash value of all other real property
28 between parents and their children, as defined by the Legislature.
29 This subdivision shall apply to both voluntary transfers and
30 transfers resulting from a court order or judicial decree.

31 (2) ~~(A) Subject to subparagraph (B), commencing with~~
32 ~~purchases or transfers that occur on or after the date upon which~~
33 ~~the measure adding this paragraph becomes effective paragraph~~
34 (3), the exclusion established by paragraph (1) also applies to a
35 purchase or transfer of real property between grandparents and
36 their grandchild or grandchildren, as defined by the Legislature,
37 that otherwise qualifies under paragraph (1), if ~~all~~ *either of the*
38 *following conditions is met:*

39 (A) *The purchase or transfer occurs on or after March 27,*
40 *1996, and all of the parents of that grandchild or those*

1 grandchildren, who qualify as the children of the grandparents, are
2 deceased as of the date of the purchase or transfer.

3 (B) (i) *The purchase or transfer occurs on or after November*
4 *6, 2002, and the grandchild or those grandchildren have a*
5 *developmental disability as of the date of the purchase or transfer.*

6 (ii) *As used in this subparagraph, “developmental disability”*
7 *means a disability that originates before an individual attains 18*
8 *years of age, continues, or can be expected to continue,*
9 *indefinitely, and constitutes a substantial disability for that*
10 *individual. “Disability” includes, but is not limited to, mental*
11 *retardation, cerebral palsy, epilepsy, autism, and any disabling*
12 *condition that is found to be closely related to mental retardation*
13 *or to require treatment similar to that required for individuals with*
14 *mental retardation. “Disability” does not include other*
15 *handicapping conditions that are solely physical in nature.*

16 (3) A purchase or transfer of a principal residence shall not be
17 excluded pursuant to subparagraph (A) or (B) of paragraph (2) if
18 the transferee grandchild or grandchildren also received a
19 principal residence, or interest therein, through another purchase
20 or transfer that was excludable pursuant to paragraph (1). The full
21 cash value of any real property, other than a principal residence,
22 that was transferred to the grandchild or grandchildren pursuant to
23 a purchase or transfer that was excludable pursuant to paragraph
24 (1), and the full cash value of a principal residence that fails to
25 qualify for exclusion as a result of the preceding sentence, shall be
26 included in applying, for purposes of subparagraph (A), the one
27 million dollar (\$1,000,000) full cash value limit specified in
28 paragraph (1).

29 (i) (1) Notwithstanding any other provision of this section, the
30 Legislature shall provide with respect to a qualified contaminated
31 property, as defined in paragraph (2), that either, but not both, of
32 the following shall apply:

33 (A) (i) Subject to the limitation of clause (ii), the base year
34 value of the qualified contaminated property, as adjusted as
35 authorized by subdivision (b), may be transferred to a replacement
36 property that is acquired or newly constructed as a replacement for
37 the qualified contaminated property, if the replacement real
38 property has a fair market value that is equal to or less than the fair
39 market value of the qualified contaminated property if that
40 property were not contaminated and, except as otherwise provided

1 by this clause, is located within the same county. The base year
2 value of the qualified contaminated property may be transferred to
3 a replacement real property located within another county if the
4 board of supervisors of that other county has, after consultation
5 with the affected local agencies within that county, adopted a
6 resolution authorizing an intercounty transfer of base year value
7 as so described.

8 (ii) This subparagraph applies only to replacement property
9 that is acquired or newly constructed within five years after
10 ownership in the qualified contaminated property is sold or
11 otherwise transferred.

12 (B) In the case in which the remediation of the environmental
13 problems on the qualified contaminated property requires the
14 destruction of, or results in substantial damage to, a structure
15 located on that property, the term “new construction” does not
16 include the repair of a substantially damaged structure, or the
17 construction of a structure replacing a destroyed structure on the
18 qualified contaminated property, performed after the remediation
19 of the environmental problems on that property, provided that the
20 repaired or replacement structure is similar in size, utility, and
21 function to the original structure.

22 (2) For purposes of this subdivision, “qualified contaminated
23 property” means residential or nonresidential real property that is
24 all of the following:

25 (A) In the case of residential real property, rendered
26 uninhabitable, and in the case of nonresidential real property,
27 rendered unusable, as the result of either environmental problems,
28 in the nature of and including, but not limited to, the presence of
29 toxic or hazardous materials, or the remediation of those
30 environmental problems, except where the existence of the
31 environmental problems was known to the owner, or to a related
32 individual or entity as described in paragraph (3), at the time the
33 real property was acquired or constructed. For purposes of this
34 subparagraph, residential real property is “uninhabitable” if that
35 property, as a result of health hazards caused by or associated with
36 the environmental problems, is unfit for human habitation, and
37 nonresidential real property is “unusable” if that property, as a
38 result of health hazards caused by or associated with the
39 environmental problems, is unhealthy and unsuitable for
40 occupancy.



1 (B) Located on a site that has been designated as a toxic or
2 environmental hazard or as an environmental cleanup site by an
3 agency of the State of California or the federal government.

4 (C) Real property that contains a structure or structures thereon
5 prior to the completion of environmental cleanup activities, and
6 that structure or structures are substantially damaged or destroyed
7 as a result of those environmental cleanup activities.

8 (D) Stipulated by the lead governmental agency, with respect
9 to the environmental problems or environmental cleanup of the
10 real property, not to have been rendered uninhabitable or unusable,
11 as applicable, as described in subparagraph (A), by any act or
12 omission in which an owner of that real property participated or
13 acquiesced.

14 (3) It shall be rebuttably presumed that an owner of the real
15 property participated or acquiesced in any act or omission that
16 rendered the real property uninhabitable or unusable, as
17 applicable, if that owner is related to any individual or entity that
18 committed that act or omission in any of the following ways:

19 (A) Is a spouse, parent, child, grandparent, grandchild, or
20 sibling of that individual.

21 (B) Is a corporate parent, subsidiary, or affiliate of that entity.

22 (C) Is an owner of, or has control of, that entity.

23 (D) Is owned or controlled by that entity.

24 If this presumption is not overcome, the owner shall not receive
25 the relief provided for in subparagraph (A) or (B) of paragraph (1).
26 The presumption may be overcome by presentation of satisfactory
27 evidence to the assessor, who shall not be bound by the findings
28 of the lead governmental agency in determining whether the
29 presumption has been overcome.

30 (4) This subdivision applies only to replacement property that
31 is acquired or constructed on or after January 1, 1995, and to
32 property repairs performed on or after that date.

33 (j) Unless specifically provided otherwise, amendments to this
34 section adopted prior to November 1, 1988, shall be effective for
35 changes in ownership that occur, and new construction that is
36 completed, after the effective date of the amendment. Unless
37 specifically provided otherwise, amendments to this section
38 adopted after November 1, 1988, shall be effective for changes in

- 1 ownership that occur, and new construction that is completed, on
- 2 or after the effective date of the amendment.

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